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LEGISLATIVE HISTORY

Public Law 445--77th Congress

Chapter 52--2d Session

H. R. 5833

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DIGEST OF PUBLIC LAW 445

EXTENSION OF TIME FOR ORDERS AND MARKETING AGREEMENTS FOR HOPS.

Amends the Agricultural Marketing Agreement Act so as to extend the period for which marketing orders for hops may be applicable from September 1, 1942, to September 1, 1945; extends the application of marketing orders to the products of hops; establishes authority for additional means of limiting the quantity of hops marketed and of apportioning such quantities among producers; and extends the triple damage penalty provision of the Act to handling of hops which are in excess of the quantity apportioned.

INDEX AND SUMMARY OF HISTORY OF H. R. 5833

June 24, 1941	H. R. 5141 was introduced by Rep. Pierce and was referred to the House Committee on Agriculture. Print of the bill as introduced. (Similar bill).
June 26, 1941	S. 1662 was introduced by Senator McNary and was referred to the Senate Committee on Agriculture and Forestry. Print of the bill as introduced. (Comparison bill).
October 9, 1941	Senator McNary proposed an amendment, in the nature of a substitute, to S. 1662. Print of the amendment.
October 15, 1941	H. R. 5833 was introduced by Rep. Pierce and referred to the House Committee on Agriculture. Print of the bill as introduced.
October 23, 1941	House Committee reported H. R. 5833 without amendment. House Rept. 1311. Print of the bill as reported.
November 17, 1941	H. R. 5833 was discussed in the House and passed as reported.
November 19, 1941	H. R. 5833 was referred to the Senate Committee on Agriculture and Forestry. Print of the bill as referred.
January 15, 1942	Senate Committee reported H. R. 5833 with an amendment. Senate Rept. 957. Print of the bill as reported.
January 22, 1942	H. R. 5833 was discussed in the Senate and passed as reported.
February 10, 1942	Approved. Public Law 445.

H. R. 5141

IN THE HOUSE OF REPRESENTATIVES

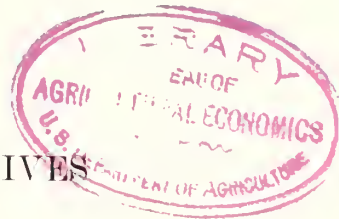
JUNE 24, 1941

Mr. PIERCE introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That section 3 of the Act entitled "An Act to amend the
- 4 Agricultural Adjustment Act, as amended, by including hops
- 5 as a commodity to which orders under such Act are appli-
- 6 cable", approved April 13, 1938, as amended, shall not be
- 7 applicable with respect to orders issued after the date of
- 8 enactment of this Act.



A BILL

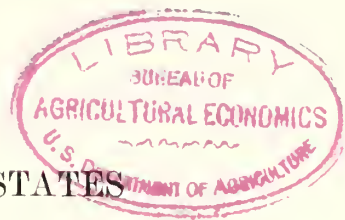
To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

By Mr. PIERCE

JUNE 24, 1941

Referred to the Committee on Agriculture

S. 1662



IN THE SENATE OF THE UNITED STATES

JUNE 26, 1941

Mr. McNARY introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

A BILL

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That section 3 of the Act entitled "An Act to amend the
- 4 Agricultural Adjustment Act, as amended, by including hops
- 5 as a commodity to which orders under such Act are ap-
- 6 plicable", approved April 13, 1938, as amended, shall not
- 7 be applicable with respect to orders issued after the date of
- 8 enactment of this Act.

A BILL

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

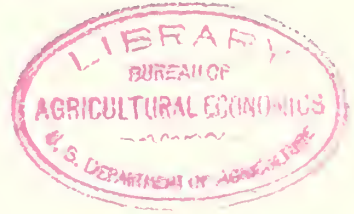
By Mr. McNARY

JUNE 26, 1941

Read twice and referred to the Committee on
Agriculture and Forestry

77TH CONGRESS
1ST SESSION

S. 1662



IN THE SENATE OF THE UNITED STATES

OCTOBER 9, 1941

Referred to the Committee on Agriculture and Forestry and ordered to be printed

AMENDMENT

(IN THE NATURE OF A SUBSTITUTE)

Intended to be proposed by Mr. McNARY to the bill (S. 1662) to extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops, viz: Strike out all after the enacting clause and in lieu thereof insert the following:

1 "That section 3 of the Act entitled 'An Act to amend the
2 Agricultural Adjustment Act, as amended, by including hops
3 as a commodity to which orders under such Act are appli-
4 cable', approved April 13, 1938, as amended, is amended
5 by striking out 'September 1, 1942' and inserting in lieu
6 thereof 'September 1, 1945'.

7 "SEC. 2. Subsection (6) of section 8c of the Agricul-
8 tural Adjustment Act, as amended, is amended by deleting

1 the comma after the words 'hops' in the first paragraph
2 thereof and inserting the words 'and their products' and a
3 comma.

4 "SEC. 3. Subsection (6) of section 8c of the Agricul-
5 tural Adjustment Act, as amended, is further amended by
6 adding thereto the following new paragraph:

7 " '(F) In the case of hops and their products, in
8 addition to, or in lieu of, the foregoing terms and condi-
9 tions, orders may contain one or more of the following:

10 " '(i) Limiting, or providing methods for the
11 limitation of, the total quantity thereof or of any
12 grade, type, or variety thereof, produced during any
13 specified period or periods, which all handlers may
14 handle in the current of or so as to burden, obstruct,
15 or affect interstate or foreign commerce in hops or
16 any product thereof.

17 " '(ii) Apportioning, or providing methods for
18 apportioning, the total quantity of hops so limited,
19 equitably among all producers in the production
20 area to which the order applies upon the basis of
21 any one or more or combination of the following:
22 The total or average quantity marketed by each
23 producer, or available or estimated thereafter to be
24 available for market, from any crop or crops of hops
25 produced by that producer, or on a hop yard cur-

rently operated by that producer, all of such standards to be during such period or periods as the Secretary determines to be representative; the normal production of the acreage of hops operated by each producer during any specified period or periods, as determined by the Secretary upon the basis of the number of acres of hops found to be in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper, for age of plantings or abnormal production conditions affecting yield, or for other pertinent factor; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

“(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding section (ii) to each respective producer of hops; such allotment shall

AMENDMENT

(IN THE NATURE OF A SUBSTITUTE)

Intended to be proposed by Mr. McNARY to the bill (S. 1662) to extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

OCTOBER 9, 1941

Referred to the Committee on Agriculture and Forestry
and ordered to be printed

1 constitute an allotment fixed for that handler within
2 the meaning of subsection (5) of section 8a of this
3 title.' ”

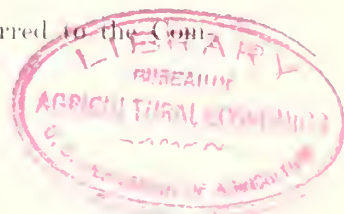
77TH CONGRESS
1ST SESSION

H. R. 5833

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 1941

Mr. PIERCE introduced the following bill; which was referred to the Committee on Agriculture



A BILL

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 3 of the Act entitled "An Act to amend the
4 Agricultural Adjustment Act, as amended, by including hops
5 as a commodity to which orders under such Act are ap-
6 plicable", approved April 13, 1938, as amended, is amended
7 by striking out "September 1, 1942" and inserting in lieu
8 thereof "September 1, 1945".

9 SEC. 2. Subsection (6) of section 8c of the Agricul-
10 tural Adjustment Act, as amended, is amended by deleting

1 the comma after the word "hops" in the first paragraph
2 thereof and inserting the words "and their products" and a
3 comma.

4 SEC. 3. Subsection (6) of section 8c of the Agricultural
5 Adjustment Act, as amended, is further amended by adding
6 thereto the following new paragraph:

7 "(F) In the case of hops and their products, in addi-
8 tion to, or in lieu of, the foregoing terms and conditions,
9 orders may contain one or more of the following:

10 "(i) Limiting, or providing methods for the limita-
11 tion of, the total quantity thereof or of any grade, type,
12 or variety thereof, produced during any specified period
13 or periods, which all handlers may handle in the current
14 of or so as to burden, obstruct, or affect interstate or
15 foreign commerce in hops or any product thereof.

16 "(ii) Apportioning, or providing methods for ap-
17 portioning, the total quantity of hops so limited, equi-
18 tably among all producers in the production area to
19 which the order applies upon the basis of any one or
20 more or combination of the following: The total or aver-
21 age quantity marketed by each producer, or available
22 or estimated thereafter to be available for market,
23 from any crop or crops of hops produced by that pro-
24 ducer, or on a hop yard currently operated by that
25 producer, all of such standards to be during such period

1 or periods as the Secretary determines to be representa-
2 tive; the normal production of the acreage of hops
3 operated by each producer during any specified period
4 or periods, as determined by the Secretary upon the
5 basis of the number of acres of hops found to be in
6 production, and the average yield of that acreage during
7 such period as the Secretary determines to be repre-
8 sentative, with adjustments determined by the Secretary
9 to be proper, for age of plantings or abnormal production
10 conditions affecting yield, or for other pertinent factor;
11 such normal production or historical record of any
12 acreage for which data as to yield of hops are not
13 available or which had no yield during such period
14 shall be determined by the Secretary on the basis of
15 the yields of other acreage of hops of similar charac-
16 teristics as to productivity, subject to adjustment as just
17 provided for.

18 “(iii) Allotting, or providing methods for allotting,
19 the quantity of hops which any handler may handle so
20 that the allotment fixed for that handler shall be limited
21 to the quantity of hops apportioned under preceding sec-
22 tion (ii) to each respective producer of hops; such allot-
23 ment shall constitute an allotment fixed for that handler
24 within the meaning of subsection (5) of section 8a of this
25 title.”

A BILL

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

By Mr. PIERCE

OCTOBER 15, 1941

Referred to the Committee on Agriculture

HOPS ORDERS AND MARKETING AGREEMENTS

OCTOBER 23, 1941.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. PIERCE, from the Committee on Agriculture, submitted the following

REPORT

[To accompany H. R. 5833]

The Committee on Agriculture, to whom was referred the bill (H. R. 5833) to extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops, having considered the same, report thereon with a recommendation that it do pass without amendment.

STATEMENT

Section 1 extends present authority from limit of September 1, 1942, to September 1, 1945.

Section 2 clarifies an uncertainty now existing between subsections 2 and 6 of section 8c of the Agricultural Adjustment Act, making it clear that lupulin and other direct products of hops would be subject to regulation.

Section 3 adds a new paragraph supplemental to the present provisions of the act, which would permit growers to have their marketing allotments fixed early in the year upon the basis of the historical production of the farm, or its normal productive capacity. Such "early allotment" base would be of great value to all phases of the industry, from producer to consumer. It would permit immediate delivery of hops as soon as harvest was complete, in order to avoid holding the hops in relatively poor farm storage for long periods of time until allotments under the present method can finally be determined. This will also effect considerable saving to the farmer in interest paid on loans outstanding, warehouse charges, insurance premiums, and risk of losses in farm storage. It should be noted that the amendment provides no restriction as to acreage, since it is expressly provided that all acreage which has no yield history will be given equivalent allotments upon the same basis as all other hop farms. The final paragraph, section (iii), simply clarifies the legal language as to the method of allotment to handlers, making it clear

that a handler cannot deal in more hops from a particular individual than have been apportioned to that individual.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

(Public, 482, 75th Cong.)

* * * * *

SEC. 3. No order issued pursuant to section 8c of the Agricultural Adjustment Act, as amended, shall be applicable to hops after [September 1, 1942] *September 1, 1945.*

(Agricultural Adjustment Act, as amended)

* * * * *

ORDERS

SEC. 8c. (6) In the case of fruits (including pecans and walnuts but not including apples, other than apples produced in the States of Washington, Oregon, and Idaho, and not including fruits, other than olives, for canning) and their products, tobacco and its products, vegetables (not including vegetables, other than asparagus, for canning) and their products, soybeans and their products, hops[.] and their products, honeybees, and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin), orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others: * * *

* * * * *

SEC. 8c. (6) * * *

(F) In the case of hops and their products, in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

(i) Limiting, or providing methods for the limitation of, the total quantity thereof or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

(ii) Apportioning, or providing methods for apportioning, the total quantity of hops so limited, equitably among all producers in the production area to which the order applies upon the basis of any one or more or combination of the following: The total or average quantity marketed by each producer, or available or estimated thereafter to be available for market, from any crop or crops of hops produced by that producer, or on a hop yard currently operated by that producer, all of such standards to be during such period or periods as the Secretary determines to be representative; the normal production of the acreage of hops operated by each producer during any specified period or periods, as determined by the Secretary upon the basis of the number of acres of hops found to be in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper, for age of plantings or abnormal production conditions affecting yield, or for other pertinent factor; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding section (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 8a of this title.

77TH CONGRESS
1ST SESSION

H. R. 5833

[Report No. 1311]

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 1941

Mr. PIERCE introduced the following bill: which was referred to the Committee on Agriculture

OCTOBER 23, 1941

Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

A BILL

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

1 *Be it enacted by the Senate and House of Representa-*
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3 That section 3 of the Act entitled "An Act to amend the
4 Agricultural Adjustment Act, as amended, by including hops
5 as a commodity to which orders under such Act are ap-
6 plicable", approved April 13, 1938, as amended, is amended
7 by striking out "September 1, 1942" and inserting in lieu
8 thereof "September 1, 1945".

9 SEC. 2. Subsection (6) of section 8c of the Agricul-
10 tural Adjustment Act, as amended, is amended by deleting
11 the comma after the word "hops" in the first paragraph

1 thereof and inserting the words "and their products" and a
2 comma.

3 SEC. 3. Subsection (6) of section 8c of the Agricultural
4 Adjustment Act, as amended, is further amended by adding
5 thereto the following new paragraph:

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9 " (i) Limiting, or providing methods for the limita-
10 tion of, the total quantity thereof or of any grade, type,
11 or variety thereof, produced during any specified period
12 or periods, which all handlers may handle in the current
13 of or so as to burden, obstruct, or affect interstate or
14 foreign commerce in hops or any product thereof.

15 " (ii) Apportioning, or providing methods for ap-
16 portioning, the total quantity of hops so limited, equi-
17 tably among all producers in the production area to
18 which the order applies upon the basis of any one or
19 more or combination of the following: The total or aver-
20 age quantity marketed by each producer, or available
21 or estimated thereafter to be available for market,
22 from any crop or crops of hops produced by that pro-
23 ducer, or on a hop yard currently operated by that
24 producer, all of such standards to be during such period
25 or periods as the Secretary determines to be representa-

1 tive; the normal production of the acreage of hops
2 operated by each producer during any specified period
3 or periods, as determined by the Secretary upon the
4 basis of the number of acres of hops found to be in
5 production, and the average yield of that acreage during
6 such period as the Secretary determines to be repre-
7 sentative, with adjustments determined by the Secretary
8 to be proper, for age of plantings or abnormal production
9 conditions affecting yield, or for other pertinent factor;
10 such normal production or historical record of any
11 acreage for which data as to yield of hops are not
12 available or which had no yield during such period
13 shall be determined by the Secretary on the basis of
14 the yields of other acreage of hops of similar charac-
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18 the quantity of hops which any handler may handle so
19 that the allotment fixed for that handler shall be limited
20 to the quantity of hops apportioned under preceding sec-
21 tion (ii) to each respective producer of hops; such allot-
22 ment shall constitute an allotment fixed for that handler
23 within the meaning of subsection (5) of section 8a of this
24 title.”

77TH CONGRESS
1ST SESSION

H. R. 5833

[Report No. 1311]

A BILL

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

By Mr. PIERCE

OCTOBER 15, 1941

Referred to the Committee on Agriculture

OCTOBER 23, 1941

Committed to the Committee of the Whole House on the state of the Union and ordered to be printed



Mr. CELLER. Mr. Speaker, I believe there will be a better understanding of this matter concerning the gentleman from New York [Mr. FISH], if the House could keep well in mind the fact there are two privileges involved: One the privilege of the House and one a personal privilege that is conferred upon the Member. We waive the privilege of the House and authorize the gentleman from New York to appear before the grand jury by the passage of the resolution offered by the majority leader. As to the personal privilege the gentleman from New York [Mr. FISH] can do whatever he wishes. That is within his conscience and that is the proper way to handle the situation. It is up to the Member to determine whether he shall or shall not appear. It would be barbarous, indeed, if a Member could say to the country, "I am willing to testify, but the House will not let me." Now the House gives the privilege to testify and, in my humble opinion, the gentleman should testify.

In construing House Resolution 335, concerning the gentleman from New York [Mr. FISH], we must keep separate the question of a House privilege and the question of a personal privilege. Jefferson's Manual, which governs proceedings in the House of Representatives, provides in section 294 that—

The privilege of a Member is the privilege of the House; if a Member waive it without leave, it is a ground for punishing him, but it cannot in effect waive the privilege of the House.

It has always been held that the service of a subpoena or any other process by a court or a grand jury, purporting to command a Member of the House to appear and testify, invades the rights and privileges of the House of Representatives. Otherwise, if a Member could be compelled thus to absent himself from the House, his constituency could be deprived of his voice and his vote. The House has always held that it is the paramount duty of a Member to attend the sessions of the House; but the House can waive its privilege and authorize a Member to obey a subpoena or other process by a court or a grand jury purporting to command the Member to appear and to testify.

The House has frequently in the past waived its privilege and authorized the attendance of a Member at a court or before a grand jury as a witness. On May 6, 1846—see section 2660, volume 3, *Hinds' Precedents*—the House passed a resolution stating, in part, as follows:

The House, having been informed that Mr. Hopkins, one of its Members, has been served with a process of the Circuit Court of the United States now sitting in this city, to attend as a witness in a criminal case pending in that court, resolved that Mr. Hopkins have leave of this House to attend said court.

On March 21, 1876, the House waived its privilege and permitted three of its Members to testify before the grand jury sitting in Washington—see section 2662, volume 3, *Hinds' Precedents*. In that case the House agreed to the following resolution:

Whereas John M. Glover, Jephtha D. New, and A. Herr Smith, Members of this House and of the committee of this House investigating the affairs of the real-estate pool of

the District of Columbia, having been summoned to appear as witnesses before the grand jury of the district court of said District to testify; and whereas this House sees no reason why the said Members should not appear and testify; therefore, that they be, and are hereby, authorized to appear and testify under the said summons.

It would seem, therefore, that the House invariably waives its privilege and allows its Members to testify. Moreover, it usually puts the matter of testifying up to the Member himself. It is within the Member's own conscience whether or not he should testify. The responsibility is his. He should not be permitted to hide behind the excuse that the House refuses to permit him to testify. He should not be permitted to say, "I am willing to testify but the House will not let me."

If, after the House gives its consent or authority for a Member to testify, then the question becomes one of personal privilege, in contradistinction to the privilege of the House. If a Member refuses to testify, he may be subject to contempt. Then the question arises whether the court can punish him by arrest or otherwise. I believe he can then invoke the personal privilege accorded him by article I, section 6, of the Constitution, which provides as follows:

The Senators and Representatives * * *. They shall in all cases except treason, felony, and breach of the peace be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

The term "treason, felony, and breach of the peace" is a generic term and embraces all crimes. Thus, a Member cannot raise the question of personal privilege in case of a criminal offense. The Supreme Court has so decided in a number of cases, but principally in the case of *Williamson v. U. S.* (207 U. S. 425). The Court there said:

The term "treason, felony, and breach of the peace" exempts from the operation of the privilege all criminal offenses. The privilege only applies in civil suits.

If the gentleman from New York [Mr. FISH] refuses to testify after the House gives its authority, the court lacks the authority to punish him. An arrest for disregarding the subpoena would be in the nature of a civil arrest, and the Member can then claim his personal constitutional privilege as aforesaid.

Former Senator Blease, of South Carolina, on December 5, 1929, was served with a subpoena issued by the Supreme Court of the District of Columbia directing him to appear and testify before a session of the grand jury. Blease refused to testify. The foreman of the grand jury reported the deliberate absence of the Senator to the chief justice and associate justices of the Supreme Court of the District. Justice Peyton Gordon addressed the grand jury, and said that article I, section 6, of the Constitution gave immunity of arrest, but it did not say that a Member of Congress is privileged from subpoena. Justice Gordon continued and said that if a Member did not obey the subpoena, the only step would be to issue an attach-

ment for the Member's arrest. Since the Constitution provided immunity from arrest, a Member is not subject to such action. The court thus admitted that it had no power to compel obedience to the subpoena.

Article 1, section 6, of the Constitution was again interpreted by the United States Supreme Court in the case of *Long v. Ansell* (293 U. S. 76; October term, 1934). Mr. Justice Brandeis delivered the opinion of the Court and said in part:

Senator Long contends that article I, section 6, clause 1, of the Constitution confers upon every Member of Congress, while in attendance within the District, immunity in civil cases not only from arrest but also from service of process. Neither the Senate nor the House of Representatives has ever asserted such a claim in behalf of its Members. Clause 1 defines the extent of the immunity. Its language is exact and leaves no room for a construction which would extend the privilege beyond the terms of the grant. In *Kimberly v. Butler*, Federal cases No. 7777, Mr. Chief Justice Chase, sitting in the Circuit Court for the District of Maryland, held that the privilege was limited to exemption from arrest. * * * History confirms the conclusion that the immunity is limited to arrest.

Applying the decision of Mr. Justice Brandeis to the case at hand, the gentleman from New York [Mr. FISH] has no immunity from service of process. He has no personal immunity from such process. The immunity is limited to arrest.

Personally and frankly, I believe it is the duty of the gentleman from New York to testify. It would be barbarous if Congress refused to allow one of its Members to testify, particularly if that Member had, for example, important information that is necessary to acquit or convict in case of murder, rape, arson, kidnaping, or any other heinous offense.

It has been argued that because of the form of this particular summons served on the gentleman from New York, the House cannot waive its privilege or should not waive its privilege. The summons in question is as follows:

[Grand jury, District Court of the United States for the District of Columbia. *The United States v. John Doe*, No. —. Grand jury original, criminal docket. (Grand jury sitting in room 312 at Municipal Building, Fourth and E Streets NW., Washington, D. C.)]

THE PRESIDENT OF THE UNITED STATES TO HAMILTON FISH:

You are hereby commanded to attend before the grand jury of said court on Wednesday, the 12th day of November 1941, at 10:30 o'clock a. m., to testify on behalf of the United States, and not depart the court without leave of the court or district attorney.

Witness, the Honorable Chief Justice of said court the — day of —, 19—.

[SEAL] CHARLES E. STEWART, Clerk.

By M. M. CHESTON, Assistant Clerk.

This is the usual form of the grand jury summons, I believe, used in most jurisdictions. The words "to testify on behalf of the United States, and not to depart the court without leave of the court or district attorney," have been seized upon as giving the right to the grand jury or the United States attorney to hold the gentleman from New York in custody for an undue length of time.

It is further argued that this wording of the summons would prevent the full and proper functions of a Member as a Congressman from attending sessions of the House and properly devoting his time to his official duties, because he could be held indefinitely by the United States attorney or the grand jury. I believe there is no merit in this argument. If the United States attorney or the grand jury holds the Member in custody for an unreasonable length of time, the House has its remedy. It can arrange for the Member's liberation and restoration to his seat by the hands of its own officer. It can direct its Sergeant at Arms to take the Member from the custody of the grand jury and physically restore him to the precincts of the House. Furthermore, the House may enforce its privilege or the privilege of a Member by authorizing the issuance of a writ of habeas corpus to free a Member from duress or arrest in violation of article I, section 6, of the Constitution. (See *Story, Arguendo, in Prigg v. Penn.*, 16 Pet. 539-619.)

The deciding of these issues is not without difficulty. On the one hand you have the rights of the House and the personal privilege of the Member. On the other hand, you have the constitutional and inherent right of the citizens to the attending and confronting of witnesses.

Then, too, you have the right of the constituency of a Member to have that Member present and to voice his opinions and to vote during the sessions of the House.

Our Government is one of coordinate branches. There must be appropriate teamwork amongst these branches. Assuredly, the House must not prevent the consummation of justice in any particular cases. The executive branch must see to it that the Member is not prevented from doing his duty. In the instant case the gentleman from New York is not prevented from doing his duty to his constituency by appearing a short time before the grand jury to tell what he knows about the case pending before that body. The grand jury and the United States attorney must see to it that his attendance before the jury is not unduly prolonged. In conclusion, in my humble opinion the gentleman from New York should testify.

EXTENSION OF REMARKS

Mr. EDWIN ARTHUR HALL. Mr. Speaker, I ask unanimous consent to extend my own remarks in the *RECORD* and to include therewith copy of a speech I made over the Columbia Broadcasting System last night, entitled "Let's Send the Boys Home for Christmas."

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TINKHAM. Mr. Speaker, I ask unanimous consent to extend my remarks in the *RECORD* by the inclusion of two editorials from the *Saturday Evening Post* of November 15. I have an estimate of cost in relation to one of these editorials from the Public Printer.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE

Mr. MURRAY. Mr. Speaker, due to the fact that we do not have the price-control bill up today and will not until later, I relinquish the time granted to me to address the House today.

THE STRIKE SITUATION

Mr. LELAND M. FORD. Mr. Speaker, I ask unanimous consent to proceed for 1 minute and to revise and extend my remarks in the *RECORD*.

The SPEAKER. Is there objection?

There was no objection.

Mr. LELAND M. FORD. Mr. Speaker, I have just heard from Mr. Girdler, saying that many men have turned up to work in the mines but that they were being kept from work by pickets; that, in his opinion, if these men had the protection to which they are entitled under the Constitution of the United States, namely, the right to pass over public places and highways, 80 percent of the men would be back working in the mines. In my opinion, this certainly is an infringement on these men's freedom. In this same connection on freedom, I hold in my hand a document entitled "The Four Freedoms," under which appears the President's signature.

Everyone will agree with the President that these "four freedoms" certainly are necessary and in accord with American understanding of freedom. However, there is one freedom that is not here mentioned, which, I believe, is just as important, if not more important, than any of these mentioned by the President, and that is the freedom to work in this country without paying tribute for the privilege thereof to anybody, at any time and at any place.

It is particularly appropriate that this freedom be drawn to the attention, not only of the President of the United States but to every Member of this House, and, in view of the treasonable, traitorous attitude of John L. Lewis, that every Member of this House see that this right is protected. Lewis and his gang would wreck the Constitution of the United States to attain his end, as well as to wreck the rank and file of honest and patriotic miners, and in doing so try to set himself up as greater than the United States itself. Now that this show-down has come, I hope that every Member of this House will have the intestinal fortitude to support my House Concurrent Resolution 54, or any other legislation of similar kind that will show Lewis and these other traitors where he stands. This House should brand Lewis's present action as nothing more nor less than plain, simple treason; and if I personally had my way, he would pay the penalty of a traitor, as I believe he is the most dangerous man in the United States today so far as the wrecking of our defense program is concerned.

LEAVE TO ADDRESS THE HOUSE

Mr. GIFFORD. Mr. Speaker, I ask unanimous consent that, after the other special orders today are disposed of, I may address the House for 20 minutes.

The SPEAKER. Is there objection?

There was no objection.

EXTENSION OF REMARKS

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to extend my remarks and include therein remarks regarding the death of the late Bishop William Lawrence.

The SPEAKER. Is there objection?

There was no objection.

Mr. VORYS of Ohio. Mr. Speaker, I ask unanimous consent to extend my remarks by inserting some figures I have had compiled.

The SPEAKER. Is there objection?

There was no objection.

THOMAS JEFFERSON ON GOVERNMENT PATRONAGE

Mr. MUNDT. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. MUNDT. Mr. Speaker, in view of some recent American history, I think it might be appropriate at this time to call attention to some words uttered by Thomas Jefferson, who in a more glorious era of the Democratic Party was considered to be its patron saint. With that far-seeing vision with which he was so richly endowed, he one time said:

The elective principle becomes nothing if it may be smothered by the enormous patronage of the general Government.

Mr. Speaker, I submit that Thomas Jefferson was not only a great statesman but also something of a prophet.

OIL LEAK TO AXIS

Mr. COFFEE of Washington. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. COFFEE of Washington. Mr. Speaker, we have been designating ourselves as the arsenal for the democracies. Some alarming facts have been developed by the newspaper *PM*, which certainly cannot be regarded as a critic of this administration's foreign policy. It has developed that we are sending every week to Franco of Spain, a Fascist country, openly in league with Germany, thousands and thousands of barrels of petroleum, including high-octane gasoline and lubricants. *PM* has two startling series of articles by its Washington correspondent, I. F. Stone, which give specific statistics in that regard. In my opinion, that newspaper is to be commended for showing up this strange shoddy business of arming the Axis, while we pretend to be the arsenal for the democracies. In heaven's name, cannot we at least be consistent in this business and stop the sale of munitions and materials of war to countries in league with our potential enemies?

I ask unanimous consent to extend my remarks by the insertion of two articles from the newspaper *PM*.

The SPEAKER. Is there objection?

There was no objection.

AGRICULTURAL ADJUSTMENT ACT APPLICABLE TO HOPS

Mr. PIERCE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 5833) to

extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MICHENER. Mr. Speaker, reserving the right to object, this is the bill about which the gentleman from Oregon spoke the other day?

Mr. PIERCE. This is the bill; yes. It is an extension of the hop bill.

Mr. MICHENER. At that time there were some members on the minority side of the Committee on Agriculture who did not favor the bill. As I understand it now, all members of the Committee on Agriculture favor the bill?

Mr. PIERCE. Yes; that is true. There is no opposition. It is an agreed bill between the hop growers and the producers. All differences have been wiped out in this bill that I offer now for final passage.

Mr. HOFFMAN. To make more beer?

Mr. PIERCE. Oh, yes; yes.

Mr. MICHENER. It is agreeable to the gentleman from Pennsylvania [Mr. KINZER], is it?

Mr. PIERCE. It is. The gentleman from Pennsylvania is present now.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read as follows:

Be it enacted, etc., That section 3 of the act entitled "An act to amend the Agricultural Adjustment Act, as amended, by including hops as a commodity to which orders under such act are applicable," approved April 13, 1938, as amended, is amended by striking out "September 1, 1942" and inserting in lieu thereof "September 1, 1945."

Sec. 2. Subsection (6) of section 8c of the Agricultural Adjustment Act, as amended, is amended by deleting the comma after the word "hops" in the first paragraph thereof and inserting the words "and their products" and a comma.

Sec. 3. Subsection (6) of section 8c of the Agricultural Adjustment Act, as amended, is further amended by adding thereto the following new paragraph:

"(F) In the case of hops and their products, in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

"(i) Limiting, or providing methods for the limitation of, the total quantity thereof or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

"(ii) Apportioning, or providing methods for apportioning, the total quantity of hops so limited, equitably among all producers in the production area to which the order applies upon the basis of any one or more or combination of the following: The total or average quantity marketed by each producer, or available or estimated thereafter to be available for market, from any crop or crops of hops produced by that producer, or on a hop yard currently operated by that producer, all of such standards to be during such period or periods as the Secretary determines to be representative; the normal production of the acreage of hops operated by each producer during any specified period or periods, as determined by the Secretary upon the basis of the number of acres of hops found to be in production, and the average yield of that

acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper, for age of plantings or abnormal production conditions affecting yield, or for other pertinent factor; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

"(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding section (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 8a of this title."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE

Mr. FLANNAGAN. Mr. Speaker, I ask unanimous consent to proceed for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. FLANNAGAN. Mr. Speaker, I am afraid the House ill served its standing and prestige when on Monday, without notice that the matter would be brought up, without consideration or debate, when only a handful of Members were present, it passed a resolution advising the Representative from New York, the Honorable HAMILTON FISH, to "refrain from responding to the summons served upon him" to appear before the District grand jury until the Judiciary Committee, to whom the resolution was referred, had reported.

It was with genuine pleasure and satisfaction, however, that I witnessed the House a few minutes ago pass a resolution waiving, so far as the House is concerned, any supposed right or privilege it may have with respect to our colleague the gentleman from New York obeying the summons from the Federal grand jury.

I question the right of the House, as I question the right of the gentleman from New York, to disobey a summons from a grand jury, Federal or State.

Can it be possible that the House for one moment entertains the thought that a Member, sworn to "support and defend the Constitution of the United States against all enemies, foreign and domestic," can hide behind congressional immunity and defeat the Government he has sworn to support and defend in its effort to uncover its enemies and bring them to the bar of justice? Is congressional immunity a higher, a more sacred right than the defense of our Republic from "enemies, foreign and domestic"? When it comes to the defense of this Republic, while I have always thought that all citizens were impressed with the same duty and responsibility, if that duty, that responsibility, rest a little heavier upon one class of our citizenry than another,

then I am constrained to think that those in high positions who represent the people should assume the heavier duty, the heavier responsibility. What think you, my colleagues?

The original resolution was offered and passed, no doubt, upon the supposition that by reason of section 6 of article I of the Constitution the rights and privileges of the House of Representatives were being infringed in that the service of the subpoena upon a Member of the House during his attendance while the House is in session might deprive the district he represents of his voice and vote.

Article I, section 6, of the Constitution reads:

They (the Senators and Representatives) shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses and in going to and returning from same.

From the privilege, however, it will be observed, the Constitution excepts "treason, felony, and breach of the peace," which exceptions the Supreme Court has construed to include all criminal offenses, holding that the privilege applied only to arrests in civil suits (*Williamson v. United States*, 207 U. S. 425, 446; *Long v. Ansell*, 283 U. S. 75, 83).

The Supreme Court has also held that this constitutional provision does not include immunity from service of process, mesne or judicial, in either civil or criminal cases (*United States v. Cooper*, 4 Dall, 341; *Long v. Ansell*, 293 U. S. 76).

The immunity provision of article I, section 6, of the Constitution was inserted, no doubt, primarily for the purpose of protecting Members against imprisonment for debt. The practice of holding debtors to bail before judgment and imprisoning them afterward until they gave satisfaction was brought over to the Colonies from England, and at the time of the adoption of the Constitution and for years afterward many of the leading citizens of the day served jail terms over debts. The first State to abolish the practice of imprisonment for debt was Kentucky in 1821. The last States, North Carolina and Florida, in 1868, when provisions were written in their constitutions.

In *Long against Ansell*, Justice Brandeis, who delivered the opinion of the Court, among other things, said:

When the Constitution was adopted arrests in civil suits were still common in America. It is only to such arrests that the provision (art. I, sec. 6) applies.

Since the provisions in the Constitutions of Florida and North Carolina, the provision found in article I, section 6, has been practically meaningless.

Now, as the present grand jury was empaneled to inquire into the activities of those who are seeking to undermine our national safety, even if the immunity set forth in article I, section 6, of the Constitution applied, I hold that the right of the individual would have to give way to the paramount right of the State. Because the national safety and the general welfare of the people are paramount no doubt are among the reasons the framers of the Constitution, in writing the

congressional immunity clause, excepted "treason, felony, and breach of the peace." These things involve the national safety and the public good, and private rights must give way to these higher rights of the Nation and its people. Take, for instance, the case where the information to establish treasonable acts depends upon the testimony of some Senator or Representative, would it be argued that the traitor should go free because, perchance, the grand jury could not compel the Senator or Representative to appear and give the information upon which to draw an indictment? It would be assinine to think that the House would give to article I, section 6, such a construction and thus put the national safety in jeopardy. If disseminating propaganda for the purpose of undermining the faith of our people in their Government and thus jeopardizing the safety and security of our Republic in these days of peril by bringing about disunity does not amount to treason—probably it does not, because technically we are not at war—then I am unable to comprehend what the Constitution means when it defines treason to be:

Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort.

Now, let us look at the facts. The Government is trying to ferret out these Nazi gutter rats that are attempting to undermine the faith of our people in their Government by disseminating propaganda that will bring about disunity. In the dissemination of this propaganda it is alleged the congressional frank is being misused. It is common knowledge that there are many subversive agencies scattered over our land, supplied with foreign funds, spreading this propaganda. A Federal grand jury has been empaneled in the District of Columbia to investigate the whole matter and bring to the bar of justice the guilty. This grand jury investigation has led to the indictment and arrest of a member of the office force of the Congressman from New York. The indictment charges perjury, that is, giving false testimony before the grand jury. The investigation discloses that speeches of the gentleman from New York have been mailed out by at least one supposedly subversive agency under the gentleman's congressional frank, and that the indicted member of his office force has received from some unknown source a large sum of money; and when questioned by the grand jury relative to the money he refused to answer, evidently upon the theory that a true answer would incriminate him or bring embarrassment to others. When the agent in charge of one of these supposedly subversive agencies was summoned before the same grand jury, we find that after the summons had been served but before he appeared, certain mail bags were taken from his office to the office of the gentleman from New York, some of the mail bags containing the gentleman's speeches enclosed in his franked envelopes. The gentleman from New York, from statements appearing in the press, is, it is thought, in possession of knowledge that would clear up many of these things,

among them being where the member of his office force received the money and to what use he put it, and the number of his speeches in frank envelopes turned over to the supposedly subversive agency and other persons, organizations, and agencies. The Congressman has been invited to appear before the grand jury and clear up the whole matter and, it appears, refused the invitation. A summons was then issued and served on him to appear, and when questioned by a reporter as to whether he would appear, in obedience to the summons, is reported to have replied that he did not know until he consulted his lawyer. His lawyer raises the hue and cry of smear.

There are some things I believe the membership of the House would like to know, namely:

First. How can you smear a man by giving him an opportunity, under oath, to tell his side of the controversy before a grand jury? His appearance before the grand jury would be given wide publicity and, unless incriminating—and I do not think it would be—would clear up any smear his enemies may have attempted to paint him with. Truth has never asked anything better than a forum from which to speak. What better forum could any man demand than the opportunity to testify before a Federal grand jury?

Second. In raising the question of personal privilege the gentleman from New York stated the privilege to be, "I find I am unable to comply with the summons without the consent of the House, the privilege of the House being involved: I therefore submit the matter for the consideration of this body." Question: If the gentleman from New York wanted to appear before the grand jury and make a full disclosure, but felt some hesitancy without first obtaining the "consent of the House," why did he not simply ask the House for such consent? The House, in my opinion, would have gladly given its consent. Its action today confirms my opinion.

And there are some things that, in the name of national safety and security, should be known, namely:

First. How many speeches has the gentleman from New York furnished to individuals, associations, and agencies to be mailed out under his congressional frank, and a list of such individuals, associations, and agencies?

Second. Why were the speeches returned by Dennett after he had been summoned to appear before the grand jury but before he actually appeared; and why did the gentleman's office arrange for the return of the speeches by sending a Government truck?

Third. From what source or sources did the member of his office force receive the large sum of money, for what purpose was the money furnished, and what use was actually made of the money? What contact or contacts brought forth the money to the member of his office force?

Fourth. Is the gentleman's apparent aversion to testifying before the grand jury due to embarrassment or a sincere desire to shield someone; if so, whom?

I believe the grand jury is entitled to full and complete answers to these questions, and I feel sure the gentleman from New York can answer same to the satisfaction of the grand jury and the American people. I sincerely hope that without further ado he will see fit to appear before the grand jury and give full and complete answers, let the chips fall where they may. I feel quite sure that the grand jury, as to time of appearance, will cooperate with the gentleman from New York so as to hear him on some day when the House stands in recess, so the great district he represents, in the language of the resolution, will not be deprived "of his voice and vote."

My colleagues, while there may be some excuse for a Representative, conscientiously against the foreign policies of this administration, being duped into furnishing his speeches to agencies that he did not know were subversive, which agencies used the speeches to spread dissension amongst our people, there can be no excuse for a Representative, or anyone else, attempting to cover up his mistake by refusing to make a frank and full disclosure before a grand jury impaneled and sworn to uncover the activities of those who attempt to weaken our national defense by circulating literature calculated to cause dissension and disunity. The manly thing to do, the patriotic thing to do, is for all of us to cooperate to the fullest with the Government in its effort to bring these crafty-deceptive, slimy, subversive tools of Hitler to the bar of justice.

Let us ever remember that the safety and security of this Republic are paramount to the rights of any individual.

DEPORTATION

Mr. HOBBS. Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point in conjunction with my remarks amendments which have been approved by the Committee on the Judiciary to the bill H. R. 3, which is to be called up tomorrow, for the information of the membership.

The SPEAKER. Is there objection?

There was no objection.

(The matter referred to is as follows:)

"Amend H. R. 3, as last reported, as follows:

"(1) Amend section 7 of title I by inserting the word 'willfully' between the words 'who' and 'fails.'

"(2) Amend section 8 of title I so that it shall read as follows:

"Any alien against whom a valid warrant of deportation is outstanding but who has not been deported because his deportation was not feasible, and who is not in custody of the Immigration and Naturalization Service, may again be taken into custody for deportation by the Immigration and Naturalization Service in accordance with the provisions of this title."

"Amend title III as follows:

"Strike out of section 301 the words 'will not be deleterious to the national safety' and insert in lieu thereof 'would inure to the benefit.'"

"Strike out of section 302 the words 'are not or were not deleterious to the national safety of' and insert in lieu thereof 'are or were beneficial to.'"

"Amend title IV as follows:

"Strike out sections 401 and 402 and renumber section 403 so that it shall be section 401."

77TH CONGRESS
1ST SESSION

H. R. 5833



IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 1941

Read twice and referred to the Committee on Agriculture and Forestry

AN ACT

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 3 of the Act entitled "An Act to amend the
4 Agricultural Adjustment Act, as amended, by including hops
5 as a commodity to which orders under such Act are ap-
6 plicable", approved April 13, 1938, as amended, is amended
7 by striking out "September 1, 1942" and inserting in lieu
8 thereof "September 1, 1945".

9 SEC. 2. Subsection (6) of section 8c of the Agricul-
10 tural Adjustment Act, as amended, is amended by deleting

1 the comma after the word "hops" in the first paragraph
2 thereof and inserting the words "and their products" and a
3 comma.

4 SEC. 3. Subsection (6) of section 8c of the Agricultural
5 Adjustment Act, as amended, is further amended by adding
6 thereto the following new paragraph:

7 "(F) In the case of hops and their products, in addi-
8 tion to, or in lieu of, the foregoing terms and conditions,
9 orders may contain one or more of the following:

10 "(i) Limiting, or providing methods for the limita-
11 tion of, the total quantity thereof or of any grade, type,
12 or variety thereof, produced during any specified period
13 or periods, which all handlers may handle in the current
14 of or so as to burden, obstruct, or affect interstate or
15 foreign commerce in hops or any product thereof.

16 "(ii) Apportioning, or providing methods for ap-
17 portioning, the total quantity of hops so limited, equi-
18 tably among all producers in the production area to
19 which the order applies upon the basis of any one or
20 more or combination of the following: The total or aver-
21 age quantity marketed by each producer, or available
22 or estimated thereafter to be available for market,
23 from any crop or crops of hops produced by that pro-
24 ducer, or on a hop yard currently operated by that

1 producer, all of such standards to be during such period
2 or periods as the Secretary determines to be representa-
3 tive; the normal production of the acreage of hops
4 operated by each producer during any specified period
5 or periods, as determined by the Secretary upon the
6 basis of the number of acres of hops found to be in
7 production, and the average yield of that acreage during
8 such period as the Secretary determines to be repre-
9 sentative, with adjustments determined by the Secretary
10 to be proper, for age of plantings or abnormal production
11 conditions affecting yield, or for other pertinent factor;
12 such normal production or historical record of any
13 acreage for which data as to yield of hops are not
14 available or which had no yield during such period
15 shall be determined by the Secretary on the basis of
16 the yields of other acreage of hops of similar charac-
17 teristics as to productivity, subject to adjustment as just
18 provided for.

19 “(iii) Allotting, or providing methods for allotting,
20 the quantity of hops which any handler may handle so
21 that the allotment fixed for that handler shall be limited
22 to the quantity of hops apportioned under preceding sec-
23 tion (ii) to each respective producer of hops; such allot-
24 ment shall constitute an allotment fixed for that handler

1 within the meaning of subsection (5) of section 8a of this
2 title.”

Passed the House of Representatives November 17,
1941.

Attest:

SOUTH TRIMBLE,

Clerk.



AN ACT

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

NOVEMBER 19, 1941

Read twice and referred to the Committee on
Agriculture and Forestry

EXTENDING THE TIME DURING WHICH ORDERS AND MARKETING AGREEMENTS UNDER THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED, MAY BE APPLICABLE TO HOPS

JANUARY 15, 1942.— Ordered to be printed

Mr. McNARY, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H. R. 5833]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 5833) to extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops, having considered the same, report thereon favorably with the recommendation that the bill do pass with an amendment.

The amendment is in the nature of a substitute, being the provisions of Senate bill 1662, with certain modifications, and is here set out, as follows:

That section 3 of the Act entitled "An Act to amend the Agricultural Adjustment Act, as amended, by including hops as a commodity to which orders under such Act are applicable", approved April 13, 1938, as amended, is amended by striking out "September 1, 1942" and inserting in lieu thereof "September 1, 1945".

SEC. 2. Subsection (6) of section 8c of the Agricultural Adjustment Act, as amended, is amended by deleting the comma after the words "hops" in the first paragraph thereof and inserting the words "and their products" and a comma.

SEC. 3. Subsection (6) of section 8c of the Agricultural Adjustment Act, as amended, is further amended by adding thereto the following new paragraph:

"(F) In the case of hops and their products, in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

"(i) Limiting, or providing methods for the limitation of, the total quantity thereof or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as directly to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

"(ii) Apportioning, or providing methods for apportioning, the total quantity of hops of the production of the then current calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his

production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

"(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding section (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 8a of this title."

The Department of Agriculture, in a report, has recommended favorably this legislation, as amended, and this report is incorporated as an explanation of this legislation and titled "Exhibit A."

EXHIBIT A

DECEMBER 9, 1941.

Hon. ELLISON D. SMITH,
Chairman, Senate Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR SMITH: This is in reply to your request of October 10 for a report from this Department on an amendment (in the nature of a substitute) intended to be proposed by Senator McNary to bill, S. 1662, which would amend the marketing agreement and order legislation in respect to hops. The proposed amendment is identical with H. R. 5833, which is now pending before your committee.

Section 1 of this bill would extend the period for which marketing orders for hops may be applicable from September 1, 1942, to September 1, 1945. Hops are the only commodity for which there is any legislative time limitation on the applicability of marketing orders. Legislative authority for marketing orders for this commodity was first established on April 13, 1938. This legislation limited the time during which any hop order might be effective to the 2 crop years next succeeding this date. In legislation approved May 26, 1939, this time limit was extended to September 1, 1942. Bill S. 1662 as originally introduced would have removed any time limitation in respect to marketing orders for hops and would have placed this commodity on the same basis as other commodities for which orders may be issued. In a letter to your committee dated July 29, 1941, this Department reported favorably on this original bill.

While section 1 of the proposed amended bill would afford a somewhat longer period during which marketing agreement and order programs for hops might be undertaken, we wish to point out that the piece-meal method by which this program has been handled in the past has made it difficult to meet the administrative problems of planning and developing continuous programs for this commodity and of getting programs into operation in time to meet the marketing problems of the hop producers. For these reasons, we would prefer that section 1 of the bill remain in its original form.

Section 2 of the amended bill would extend the application of marketing orders to the products of hops. This amendment would make it possible to prevent the substitution of hop products for hops if it was found that such substitution would interfere with the effectiveness of a program limited only to hops.

The principal provisions of section 3 of the proposed amended bill would establish authority for additional means of limiting the quantity of hops which may be marketed in interstate and foreign commerce and of apportioning such quantities

among producers. Marketing agreement and order programs for hops have been in effect continuously since the beginning of the marketing period for the 1938 crop. Under these programs the quantity of hops, "which may be marketed in or transported to any or all markets * * *," has been limited, pursuant to the provisions of section 8c (6) (A) of the act, and such limited quantity as authorized by section 8c (6) (B) has been apportioned among producers on the basis of the "current quantities available for sale by such producers." These programs have worked fairly effectively in accomplishing the objectives of the legislation, but the method of apportionment has necessitated that producers incur certain unnecessary cultural and harvesting costs in respect to hops which are not permitted to be marketed. Furthermore, there has been some desire among hop producers to use the marketing agreement and order programs as means of securing adjustments in the production of hops instead of confining their use, as the present marketing-agreement legislation provides, to the marketing of the crop after it is produced. We are of the opinion that programs designed to secure adjustments in production, particularly adjustments in the use of land, should not be undertaken through marketing agreements and orders, but instead, through programs of the type now in effect for the basic agricultural commodities administered by the Agricultural Adjustment Administration. Reports to this effect have previously been made by this Department to your committee.

In the case of a perennial crop like hops, however, it may be desirable to provide a plan of apportionment through marketing agreement and order programs which would give all producers, in respect to their current hop acreage, an early apportionment of the quantity of hops which handlers may handle, thereby permitting them to control certain cultural and harvesting practices on their hop yards thereby saving certain cultural and marketing costs in respect to hops which cannot be marketed. Such a plan would not be designed to secure adjustments in hop acreage. Apportionments made to individual producers would not be determined by their hop acreage in any past period. Therefore, there would be no penalties on new producers or on expanded acreage. The use of historical data would be necessary only in respect to yields.

Section 3 of the proposed amended bill would permit the development of such a program, but the first method of apportionment provided therein goes much further and is much broader than appears desirable, unless marketing agreement and order programs are to be used as a means of securing adjustments in hop acreage, which we do not think is desirable. For the reasons indicated above, we suggest that section 3 (F) (ii) be amended to read as follows:

"(ii) Apportioning, or providing methods of apportioning, the total quantity of hops of the production of the then current calendar year permitted to be handled, equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for."

In order that the provisions of section 3 (F) (i) may conform with provisions of section 8c (1) of the act to which the bill relates, we suggest that the word "directly" be inserted on line 14 after the word "as."

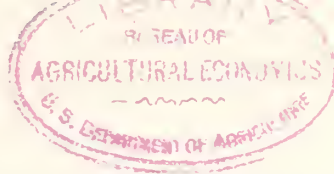
The last paragraph of section 3 of the proposed amended bill is designed to extend the triple damage penalty provisions of section 8a (5) to the handling of hops which are in excess of the quantity apportioned to any and all producers. This provision would improve the means available for enforcing marketing orders for hops.

If the bill is revised to conform with the preceding suggestions, we recommend that it be favorably considered.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely,

CLAUDE R. WICKARD, *Secretary.*



Calendar No. 993

77TH CONGRESS
2D SESSION

H. R. 5833

[Report No. 957]

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 1941

Read twice and referred to the Committee on Agriculture and Forestry

JANUARY 15, 1942

Reported by Mr. McNARY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 3 of the Act entitled "An Act to amend the
4 Agricultural Adjustment Act, as amended, by including hops
5 as a commodity to which orders under such Act are ap-
6 plicable", approved April 13, 1938, as amended, is amended
7 by striking out "September 1, 1942" and inserting in lieu
8 thereof "September 1, 1945".

9 SEC. 2. Subsection (6) of section 8e of the Agricul-
10 tural Adjustment Act, as amended, is amended by deleting

1 the comma after the word "hops" in the first paragraph
 2 thereof and inserting the words "and their products" and a
 3 comma:

4 SEC. 3. Subsection (6) of section 8c of the Agricultural
 5 Adjustment Act, as amended, is further amended by adding
 6 thereto the following new paragraph:

7 "~~(F)~~ In the case of hops and their products, in addi-
 8 tion to, or in lieu of, the foregoing terms and conditions,
 9 orders may contain one or more of the following:

10 "~~(i)~~ Limiting, or providing methods for the limita-
 11 tion of, the total quantity thereof or of any grade, type,
 12 or variety thereof, produced during any specified period
 13 or periods, which all handlers may handle in the current
 14 of or so as to burden, obstruct, or affect interstate or
 15 foreign commerce in hops or any product thereof.

16 "~~(ii)~~ Apportioning, or providing methods for ap-
 17 portioning, the total quantity of hops so limited, equi-
 18 tably among all producers in the production area to
 19 which the order applies upon the basis of any one or
 20 more or combination of the following: The total or aver-
 21 age quantity marketed by each producer, or available
 22 or estimated thereafter to be available for market,
 23 from any crop or crops of hops produced by that pro-
 24 ducer, or on a hop yard currently operated by that
 25 producer, all of such standards to be during such period

1 or periods as the Secretary determines to be representa-
2 tive; the normal production of the acreage of hops
3 operated by each producer during any specified period
4 or periods, as determined by the Secretary upon the
5 basis of the number of acres of hops found to be in
6 production; and the average yield of that acreage during
7 such period as the Secretary determines to be repre-
8 sentative; with adjustments determined by the Secretary
9 to be proper; for age of plantings; or abnormal production
10 conditions affecting yield; or for other pertinent factor;
11 such normal production or historical record of any
12 acreage for which data as to yield of hops are not
13 available or which had no yield during such period
14 shall be determined by the Secretary on the basis of
15 the yields of other acreage of hops of similar charac-
16 teristics as to productivity; subject to adjustment as just
17 provided for.

18 “(iii) Allotting; or providing methods for allotting;
19 the quantity of hops which any handler may handle so
20 that the allotment fixed for that handler shall be limited
21 to the quantity of hops apportioned under preceding sec-
22 tion (ii) to each respective producer of hops; such allot-
23 ment shall constitute an allotment fixed for that handler
24 within the meaning of subsection (5) of section 8a of this
25 title.”

1 *That section 3 of the Act entitled “An Act to amend the Agri-*
2 *cultural Adjustment Act, as amended, by including hops as*
3 *a commodity to which orders under such Act are applicable”,*
4 *approved April 13, 1938, as amended, is amended by striking*
5 *out “September 1, 1942” and inserting in lieu thereof “Sep-*
6 *tember 1, 1945”.*

7 *SEC. 2. Subsection (6) of section 8c of the Agricultural*
8 *Adjustment Act, as amended, is amended by deleting the*
9 *comma after the word “hops” in the first paragraph thereof*
10 *and inserting the words “and their products” and a comma.*

11 *SEC. 3. Subsection (6) of section 8c of the Agricultural*
12 *Adjustment Act, as amended, is further amended by adding*
13 *thereto the following new paragraph:*

14 *“(F) In the case of hops and their products, in*
15 *addition to, or in lieu of, the foregoing terms and condi-*
16 *tions, orders may contain one or more of the following:*

17 *“(i) Limiting, or providing methods for the*
18 *limitation of, the total quantity thereof, or of any*
19 *grade, type, or variety thereof, produced during any*
20 *specified period or periods, which all handlers may*
21 *handle in the current of or so as to burden, obstruct,*
22 *or affect interstate or foreign commerce in hops or*
23 *any product thereof.*

24 *“(ii) Apportioning, or providing methods for*
25 *apportioning, the total quantity of hops of the pro-*

duction of the then current calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

“(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned

1 *under preceding section (ii) to each respective pro-*
2 *ducer of hops; such allotment shall constitute an allot-*
3 *ment fixed for that handler within the meaning of*
4 *subsection (5) of section 8a of this title."*

Passed the House of Representatives November 17,
1941.

Attest:

SOUTH TRIMBLE,
Clerk.

77TH CONGRESS
2^D SESSION

H. R. 5833

[Report No. 957]

AN ACT

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

NOVEMBER 19, 1941

Read twice and referred to the Committee on
Agriculture and Forestry

JANUARY 15, 1942

Reported with an amendment

of the agricultural group, the defenders of which, in the Senate and in the House, must hear themselves called professional politicians and inflationists because they ask that the returns to the farmer be kept in some reasonable proportion to the returns to industry.

When it is understood that, as I have said, parity is a ratio and that it is measured by figures on an index, then it will be clear that this plea on behalf of the farmer to establish a bond between urban wage rates and farm prices is not unreasonable, for on the index of 1910 to 1914 urban wages have risen to approximately 280, while those who have attacked the O'Mahoney amendment ask the farmer to be satisfied because farm prices have reached something over 90 percent of parity as computed on the 1910 to 1914 index. The amendment which I have offered was designed to prevent a greater increase of this disparity, and I have no hesitation whatsoever in defending it even against the charge that it is inflationary.

BARUCH'S ADVICE

The price-control bill is an outgrowth of the experiences of the last war, and a great man, Bernard Baruch, a man so great that no act of his while he was head of the War Industries Board in World War No. 1 has ever been criticized, developed a formula for taking the profit out of war. For years he has been telling Congress and the Government that the way to prevent inflation is to apply price controls to all factors, rents, wages, interest rates, commissions, fees, in short, the price for every item and service in commerce. Today, as the Senator from Georgia [Mr. RUSSELL] pointed out, an increase of 10 percent in passenger rates is about to be granted to the railroads by an agency of the Government. Does the price-control bill control that situation? Yet any person who even dares to suggest that there should be a limit to the authority of the Price Administrator to control farm prices must be condemned as an inflationist.

The recommendation made by Mr. Baruch, which I have just read, was the recommendation of an expert whose expertness has been demonstrated by his success in the free-enterprise system and by his success as an industrial administrator in time of war.

The recommendation has not been followed by the Banking and Currency Committees of the two Houses with respect to wages and with respect to other matters. The element of wages has been left out of control. I do not quarrel with the reasons which persuaded the committees not to grant authority to the Price Administrator to place ceilings upon wages, but I do say that to criticize the O'Mahoney amendment, which accepts a ceiling upon farm commodities, as a cause of inflation when wages are left utterly without control is just putting the cart before the horse. It is the uncontrolled factor only which can cause inflation. Farm prices are not in the category of uncontrolled factors, and my amendment does not put them there. It provides only that a tenuous bond shall be created between urban wages and the price of farm commodities by giving a fractional consideration—only

one-fifth—to the wage index in formulating the index which controls the prices that the farmer is to receive. It is my own belief that this formula, while doing justice to the farmer, would not do injustice to any other group, but would tend to preserve the level of all factors which, as Mr. Baruch has pointed out, is so highly desirable if inflation is to be prevented.

MORE FARM PRODUCTION NEEDED

It must not be forgotten that it is the considered policy of this Government to provide food to its allies. We have already sent large quantities of our foodstuffs abroad under the lease-lend bill. We shall have to send more. When this war is over we shall be shipping to all the stricken peoples of the world from our granaries. Food to Finland and food to France may win victories without the loss of men. This food can be obtained only upon the farms under a free enterprise system. Only last Friday Secretary of Agriculture Wickard, in a formal statement from the Department of Agriculture, called for the largest farm production in history.

The new 1942 goals revised in view of Pearl Harbor—

Said the Secretary—

call for the greatest production in the history of American agriculture and for putting every acre of land, every hour of labor, and every bit of farm machinery, fertilizers, and other supplies to the use which will best serve the Nation's wartime needs.

This was the administration speaking, calling to the farmers of the whole Nation to produce and produce and produce. Can it be said that in the face of this appeal we should, in Congress, erect obstacles to its accomplishment by clothing a price administrator with the power to reduce the prices which the farmer is to receive?

I said "reduce," because in the controversy between Administrator Leon Henderson and Secretary of Agriculture Wickard over the terms of the price-control bill, the fact is that Mr. Henderson, on December 13 last, issued an order by which he substantially cut the current going prices of fats and oils, the same fats and oils a shortage of which Secretary Wickard told Mrs. Franklin D. Roosevelt, in a radio interview last Sunday night, the Nation faces in 1942.

Mr. President, we cannot hope to stimulate the production of needed foodstuffs while at the same time clothing a Price Administrator with power to cut the prices of farm commodities below safe levels. The amendments which have been added to the price-control bill in the Senate merely constitute an effort upon the part of the elected representatives of the people to lay down certain limits to the authority we are about to grant over an industry in which one-fourth of our people are engaged, and which is now being asked to produce a new abundance of food for America and for the world.

NOMINATIONS OF MEMBERS OF BOARD OF DIRECTORS—RECONSTRUCTION FINANCE CORPORATION

Mr. WAGNER. Mr. President, as in executive session, from the Committee on Banking and Currency I report

favorably the nominations of five persons to be members of the board of directors of the Reconstruction Finance Corporation for terms of 2 years from January 22, 1942. The nominations involve the terms of five members of the board of directors of the Reconstruction Finance Corporation whose terms expire today. Each is a reappointment. As in executive session, I ask unanimous consent for the present consideration and confirmation of the nominations.

The PRESIDING OFFICER. The nominations will be stated for the information of the Senate.

The Chief Clerk read the nominations of Charles B. Henderson, of Nevada; Sam Husbands, of South Carolina; Howard J. Klossner, of Minnesota; Henry A. Mulligan, of New York; and Charles T. Fisher, Jr., of Michigan, to be members of the board of directors of the Reconstruction Finance Corporation for terms of 2 years from January 22, 1942. (Reappointments.)

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York for the present consideration of the nominations?

Mr. McNARY. Mr. President, of course, the request requires a waiver of the rule. I have no objection; indeed, I join in the request made by the able Senator from New York. I have known the Chairman of the Board for many years. He was at one time a Member of this body, and rendered acceptable service as a Senator. He has done a fine job as a member of the Corporation and as Chairman of the Board. All five members who are now renominated are noted for their public service. I am very happy to express my concurrence and to join with the Senator from New York in the request he has made.

Mr. WAGNER. I thank the Senator from Oregon.

The PRESIDING OFFICER. Without objection, the nominations are confirmed.

Mr. WAGNER. I ask that the President be immediately notified.

The PRESIDING OFFICER. Without objection, the President will be notified forthwith.

CONSIDERATION OF MEASURES ON THE CALENDAR

Mr. BARKLEY. Mr. President, inasmuch as the Senate is about to consider measures on the calendar, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Chavez	Hughes
Andrews	Clark, Idaho	Johnson, Colo.
Austin	Clark, Mo.	Kilgore
Ball	Connally	La Follette
Bankhead	Danaher	Langer
Barkley	Davis	Lee
Bilbo	Downey	Lucas
Bone	Doxey	Maloney
Brewster	Ellender	McFarland
Brooks	George	McKellar
Brown	Gerry	McNary
Bulow	Gillette	Maybank
Bunker	Green	Mead
Burton	Guffey	Millikin
Butler	Gurney	Murdoch
Byrd	Hayden	Murray
Capper	Herring	Norris
Caraway	Hill	Nye
Chandler	Holman	O'Daniel

O'Mahoney	Smith	Van Nuys
Overton	Stewart	Wagner
Pepper	Taft	Wallgren
Radcliffe	Thomas, Idaho	Walsh
Reed	Thomas, Okla.	Wheeler
Reynolds	Thomas, Utah	White
Rosier	Truman	Wiley
Russell	Tunnell	Willis
Shipstead	Tydings	
Smathers	Vandenberg	

Mr. HILL. I announce that the Senator from New Mexico [Mr. HATCH] is absent from the Senate because of illness.

The Senator from North Carolina [Mr. BAILEY], the Senator from Virginia [Mr. GLASS], the Senator from Nevada [Mr. McCARRAN], the Senator from Wyoming [Mr. SCHWARTZ], and the Senator from Arkansas [Mr. SPENCER] are necessarily absent.

Mr. AUSTIN. The Senator from New Jersey [Mr. BARBOUR] is absent on official business.

The Senator from New Hampshire [Mr. BRIDGES] is absent in a hospital because of a recent hip injury.

The Senator from Massachusetts [Mr. LODGE] is necessarily absent.

The PRESIDING OFFICER. Eighty-five Senators have answered to their names. A quorum is present.

The clerk will state the first business on the calendar, under the unanimous-consent agreement.

ADDITION TO ARLINGTON NATIONAL CEMETERY

The Senate proceeded to consider the bill (S. 1817) to authorize the President to purchase certain lands in Arlington County, Va., which had been reported from the Committee on Public Buildings and Grounds with an amendment, to strike out all after the enacting clause and insert:

That the President is authorized to acquire by purchase or condemnation for addition to the Arlington National Cemetery a tract of land containing 25 acres, more or less, located in Arlington County, Va., and bounded on the south by the Arlington National Cemetery, on the north by Lee Boulevard, on the east by the Arlington Ridge Road, and on the west by North Meade Street: *Provided*, That, if such land is acquired by the President, he may provide for its use for any governmental purpose he may deem appropriate until any date not later than 6 months after the termination of the wars in which the United States is now engaged.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PAYMENT OF TRANSPORTATION COST OF HOUSEHOLD GOODS OF CIVILIAN EMPLOYEES

The bill (S. 1526) to amend the act approved October 10, 1940 (54 Stat. 1105), to permit such responsible officers as may be designated by the heads of departments or establishments to authorize or approve the allowance and payment of expenses incident to the transportation of the household goods of civilian officers and employees when transferred from one official station to another for permanent duty was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the act approved October 10, 1940 (54 Stat. 1105), be, and hereby is, amended by inserting after the

clause "when specifically authorized or approved by the head of the department or establishment concerned" the words "or by such responsible officer or officers of the department or establishment concerned as the head thereof may designate for that purpose."

SUPPLIES AND EQUIPMENT FOR CIVILIAN DEFENSE INSTRUCTION

The bill (S. 2167) to authorize the Secretary of War to make available for the purposes of civilian defense such arms, munitions, supplies, and equipment for instructional and demonstrational purposes only, as can be spared by the War Department, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of War may, in time of war or during any national emergency declared by Congress or by proclamation of the President, in his discretion and under such regulations as he may prescribe, lend, without cost of packing, handling, and transportation to the United States, for instructional and demonstrational purposes only, to the District of Columbia, the several States or Territories, the outlying possessions of the United States, including the Philippine Islands and all territory over which the United States exercises rights of sovereignty, or political subdivisions thereof, such arms, ammunition, munitions, or implements of war, supplies, equipment, component parts thereof or accessories thereto, as may be in the possession or under the control of, and can be spared by the War Department.

The title was amended so as to read: "A bill to authorize the Secretary of War to make available for the purpose of civilian defense instruction such arms, munitions, supplies, and equipment for instructional and demonstrational purposes only as can be spared by the War Department, and for other purposes."

TEMPORARY PROMOTION OF CERTAIN ARMY OFFICERS

The Senate proceeded to consider the bill (S. 2182) to provide for temporary promotion in the Army of the United States of officers commissioned in the Air Corps or assigned to duty with the Air Corps, which had been reported from the Committee on Military Affairs with an amendment, at the end of the bill, to change the period to a comma and insert the words "unless specifically so ordered by competent authority", so as to make the bill read:

Be it enacted, etc., That, in time of war or national emergency declared by the Congress or by the President, any officer of the Regular Army Air Corps, any officer of the Regular Army other than Air Corps who is assigned to duty with any tactical unit, or any installation, or any staff, of the Air Corps, any officer of the Air Corps Reserve or any other section of the Officers' Reserve Corps assigned to duty with any tactical unit, or any installation, or any staff, of the Air Corps, any officer of the National Guard of the United States ordered into the active military service of the United States with an Air Corps unit or assigned to duty with any tactical unit, or any installation, or any staff, of the Air Corps, and any officer directly commissioned in the Army of the United States and assigned to duty with any tactical unit, or any installation, or any staff, of the Air Corps, may be appointed to higher temporary grade not above that of colonel, without vacating his existing commission in the Regular Army, the Officers'

Reserve Corps, the National Guard of the United States, or the Army of the United States, as the case may be. The provisions of this act shall not apply to officers of the arms and services other than Air Corps who are assigned to those units or detachments of such arms or services on duty with the Air Corps. Officers so appointed shall be appointed and commissioned in the Army of the United States and shall take rank in the grade to which appointed from the date stated in their commissions or letters of appointment. Such appointments shall continue until 6 months after the termination of the war or national emergency concerned unless sooner terminated by order of the President, or until relieved from assignment to the duty herein described, whichever is the earlier: *Provided*, That the temporary promotion of any officer under the terms of this act shall not prevent his subsequent permanent promotion nor, if eligible therefor, his subsequent temporary promotion under section 4 of the act of June 16, 1936 (49 Stat. 1525), or under section 127a of the National Defense Act, as amended: *Provided further*, That during the period described herein, and in order to preserve relative rank in grade, every Regular Army Air Corps officer shall take rank in grade within the Air Corps from the date of the earliest promotion to that grade under this or any other provisions of existing law. Officers temporarily appointed under this act shall be entitled to the pay, flying pay, and allowances pertaining to the grade to which temporarily appointed. No officer holding temporary rank under the provisions of this act shall be eligible to command outside the Air Corps, except by seniority under his permanent commission, unless specifically so ordered by competent authority.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

INCREASE IN PER DIEM SUBSISTENCE ALLOWANCE OF CIVILIAN EMPLOYEES OF THE GOVERNMENT

The bill (H. R. 6220) to amend section 3 of the Subsistence Expense Act of 1926, as amended, was considered, ordered to a third reading, read the third time, and passed.

EXTENSION OF TIME FOR ORDERS AND MARKETING AGREEMENTS WITH RESPECT TO HOPS

The Senate proceeded to consider the bill (H. R. 5833) to extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That section 3 of the act entitled "An act to amend the Agricultural Adjustment Act, as amended, by including hops as a commodity to which orders under such act are applicable," approved April 13, 1938, as amended, is amended by striking out "September 1, 1942" and inserting in lieu thereof "September 1, 1945."

SEC. 2. Subsection (6) of section 8c of the Agricultural Adjustment Act, as amended, is amended by deleting the comma after the word "hops" in the first paragraph thereof and inserting the words "and their products" and a comma.

SEC. 3. Subsection (6) of section 8c of the Agricultural Adjustment Act, as amended, is further amended by adding thereto the following new paragraph:

"(F) In the case of hops and their products, in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

"(i) Limiting, or providing methods for the limitation of, the total quantity thereof, or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as directly to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

"(ii) Apportioning, or providing methods for apportioning, the total quantity of hops of the production of the then current calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

"(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding section (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 8a of this title."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

OPEN-MARKET PROCUREMENTS BY DEPARTMENT OF AGRICULTURE BELOW \$100

The bill (S. 1691) to authorize the Department of Agriculture to make open-market procurements where the aggregate amount involved does not exceed \$100 was announced as next in order.

Mr. TAFT. Mr. President, may we have an explanation of the bill?

Mr. SMITH. Mr. President, the bill is recommended by the Department of Agriculture. At present the Department must advertise for bids in connection with any expenditure above \$50. The officials of the Department say that such a restriction causes more trouble than it is worth, and they wish to raise the limit to \$100, which seems fair.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That section 1 (b) and section 1 (c) of the act approved October 10, 1940 (54 Stat. 1109), entitled "An act to consolidate certain exceptions to section 3709

of the Revised Statutes and to improve the United States Code," be, and hereby are, amended to read as follows:

"(b) Where the aggregate amount involved does not exceed the sum of \$50—

"(1) The Administrative Office of the United States Courts.

"(2) The Federal Bureau of Investigation in the field.

"(3) The Federal Home Loan Bank Board.

"(4) The Federal Power Commission.

"(5) The Federal Trade Commission.

"(6) The General Accounting Office.

"(7) The Interstate Commerce Commission.

"(8) The National Advisory Committee for Aeronautics.

"(9) The National Archives.

"(10) The National Labor Relations Board.

"(11) The Navy Department or its bureaus and offices.

"(12) The Railroad Retirement Board.

"(13) The Securities and Exchange Commission.

"(14) The Tariff Commission.

"(15) The Treasury Department.

"(16) The Veterans' Administration.

"(c) Where the aggregate amount involved does not exceed the sum of \$100—

"(1) The Civil Aeronautics Board.

"(2) The Department of Agriculture.

"(3) The Department of Labor.

"(4) The Federal Loan Agency.

"(5) The Federal Works Agency.

"(6) The Maritime Labor Board.

"(7) The Smithsonian Institution.

"(8) The United States Maritime Commission.

"(9) The District of Columbia."

REGULATION, INSPECTION, AND CLEANING OF RAILWAY CARS FROM MEXICO

The bill (H. R. 4849) to provide for regulating, inspecting, cleaning, and, when necessary, disinfecting railway cars, other vehicles, and other materials entering the United States from Mexico, was considered, ordered to a third reading, read the third time, and passed.

ADMINISTRATIVE EXPENSES OF AGRICULTURAL ADJUSTMENT ADMINISTRATION

The bill (H. R. 5171) to amend section 392 of the Agricultural Adjustment Act of 1938, as amended, so as to provide for separate appropriation accounts for administrative expenses of the Agricultural Adjustment Administration, so as to modify the 1- and 2-percent limitations on administrative expenses and to provide over-all limitations in lieu thereof, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

BILL PASSED OVER

The bill (S. 1617) to amend the Employment Stabilization Act of 1931 was announced as next in order.

Mr. McNARY. Let the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

AMENDMENT OF NATIONAL SERVICE LIFE INSURANCE ACT OF 1940

The Senate proceeded to consider the bill (S. 1935) to amend section 602 (m) of the National Service Life Insurance Act of 1940 (Public, No. 801, 76th Cong.) to provide for a person in the military service to secure insurance effective as of date of application by payment of the first premium within 30 days thereof, which had been reported from the Committee on Finance with an

amendment, to strike out all after the enacting clause and insert:

That section 602 (m), title VI, of an act entitled "An act to provide revenue, and for other purposes," approved on October 8, 1940 (Public, No. 801, 76th Cong.), be, and the same is hereby, amended by striking out the period at the end thereof and inserting a colon and the following proviso: "Provided, That an amount equal to the first premium due under a national service life-insurance policy may be advanced from current appropriations for active service pay to any person in the active service in the Army, Navy, Marine Corps, or Coast Guard, which amount shall constitute a lien upon any service or other pay accruing to the person for whom such advance was made and shall be collected therefrom if not otherwise paid: *Provided further*, That no disbursing or certifying officer shall be responsible for any loss incurred by reason of the advance herein authorized: *And provided further*, That any amount so advanced in excess of available service or other pay shall constitute a lien on the policy within the provisions of section 5, Public Law No. 866, Seventy-sixth Congress, approved October 17, 1940."

Mr. O'MAHONEY. Mr. President, I wonder if the Senator in charge of the bill will make an explanation of its effect, as amended?

Mr. LA FOLLETTE. Mr. President, the senior Senator from Missouri [Mr. CLARK] is not present today; but as I understand the bill, it is simply to provide that there may be automatic insurance of those who are taken into the service, and that the premiums may be advanced by the department concerned and deducted from the pay. The difficulty is that many of the men do not take out insurance. While the bill is not in accord with the regular insurance practice, it is recommended by both the Army and Navy, and the Veterans' Bureau has no objection to it.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. GEORGE. The situation is that ordinarily the payment of the first premium on life insurance is necessary to the validity of the policy. That, of course, has been the rule of law followed by the Veterans' Administration with reference to Government insurance. The bill would make possible the issuance of a policy immediately upon induction into the service, when many of the inductees do not have the cash with which to pay the first premium. A lien would be created against the pay check of the man, and the policy would be valid, although there would be no actual cash payment of the premium until pay day.

As the Senator from Wisconsin says, no objection has been raised by the Veterans' Administration, and the bill is recommended by the Army and the Navy.

Mr. O'MAHONEY. Mr. President, I appreciate the explanation.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to amend section 602 (m) of the National Service Life Insurance Act of

1940 (Pub., No. 801, 76th Cong.), as amended, to enable a person in active service in the Army, Navy, Marine Corps, or Coast Guard to secure such insurance effective as of date of application by advance of active service pay, and for other purposes."

LIFE INSURANCE FOR AVIATION CADETS

The Senate proceeded to consider the bill (S. 2180) to provide for the continuation of Government life insurance of aviation cadets subsequent to their being commissioned and for the continuation of such insurance of enlisted pilots, and for other purposes.

Mr. LA FOLLETTE. Mr. President, the bill now before the Senate relates solely to cadets who take the Air Corps training in the Army. During their training period they are automatically insured. Insurance is compulsory. But when they leave the schools and enter upon actual training in the service it then becomes optional whether they shall carry insurance. The proposal is to extend the compulsory insurance and deduct the premiums from their pay during all the time they are in active training, whether they be at an air school or with troops receiving practical training in the field.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That Government life insurance issued in accordance with either of the acts of June 3, 1941 (Public Laws 97 and 99, 77th Cong.), shall continue when an aviation cadet is commissioned or when an enlisted man has successfully completed his course of training and instruction as an aviation student until such officer or enlisted man is permanently relieved from duty involving participation in regular and frequent aerial flights, and that the premiums on such insurance, during such additional period, shall be deducted from the pay of the officer or enlisted man concerned and paid, under such regulations as the Secretary of War may prescribe, to the Administrator of Veterans' Affairs: *Provided*, That upon permanent relief from duty involving participation in regular and frequent aerial flights, release from active duty, or discharge, such officers and enlisted men shall have the option of continuing such insurance at their own expense: *Provided further*, That an enlisted man who is discharged for the convenience of the Government and immediately reenlisted shall not be deemed for the purposes of this act to have been thereby permanently relieved from duty involving participation in regular and frequent aerial flights.

TREASURY FOREIGN SERVICE OFFICERS AND EMPLOYEES

The bill (S. 2075) to authorize the Secretary of the Treasury to order to the United States on their statutory leaves of absence officers and employees serving abroad, and to govern the payment of traveling expenses and duties while on leave, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time and passed, as follows:

Be it enacted, etc., That the Secretary of the Treasury is authorized, whenever he deems it to be in the public interest, to order to the United States on his statutory leave

of absence any officer or employee of the Treasury Department who has performed 3 years or more of continuous service abroad: *Provided*, That the expenses of transportation and subsistence of such officers and employees and their immediate families, in traveling from their posts to their homes in the United States and return, shall be paid under the same rules and regulations applicable in the case of officers and employees going to and returning from their posts under orders of the Secretary of the Treasury when not on leave: *And provided further*, That while in the United States the services of such officers and employees shall be available for such duties in the Treasury Department as the Secretary of the Treasury may prescribe, but the time of such work or duties shall not be counted as leave.

DISPOSITION OF CERTAIN SECURITIES HELD BY THE SECRETARY OF THE TREASURY

The Senate proceeded to consider the bill (H. R. 3330) to authorize the sale, exchange, or other disposition of certain securities held by the Secretary of the Treasury.

Mr. BROWN. Mr. President, I desire to make a very brief statement about the bill. I am very anxious that it should pass. The bill passed the House of Representatives, and was favorably reported by the Committee on Finance. There is one matter concerning it, however, which should be brought to the attention of the Senate before the passage of the bill. The bill relates to the payment by a large number of cities in the United States of loans which were made under the provisions of the Emergency Relief and Construction Act of 1932. The loans were made to cities for the purpose of aiding in taking care of the unemployed. The Acting Secretary of Agriculture, Mr. Sullivan, wrote identical letters to the Ways and Means Committee and to the Finance Committee, and in his letters the statement was made that the city of Detroit had made an offer along certain lines to take care of this situation.

The bill authorizes a compromise, on such terms and conditions as the Treasury shall deem proper, of the indebtedness of these cities to the Treasury. I desire to make it plain that the letters from the Acting Secretary of the Treasury to the Senate and House committees do not accurately set forth all the terms and conditions upon which the city predicated its offer to dispose of this matter; and I ask unanimous consent that a summary of the facts and offers and a statement of the city's position in a letter from the mayor of Detroit to Under Secretary Bell may be included in the RECORD so that there may be full understanding of the entire situation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DECEMBER 23, 1941.

The Honorable D. W. BELL,
Under Secretary of the Treasury,
Washington, D. C.

MY DEAR MR. BELL: I have been informed by Congressman JOHN DINGELL that House bill 3330 has received favorable action by the House and has been sent to the Senate for consideration. This measure, as you will recall, gives the Secretary of the Treasury certain discretionary powers in liquidating advances made by the Federal Government to municipalities under the terms of the Emergency Relief and Construction Act of 1932.

My particular attention has been called to the fact that when H. R. 3330 was in the House Ways and Means Committee, Mr. John L. Sullivan, Acting Secretary of the Treasury, endorsed the bill, but in his communication to the committee indicated that, if the measure becomes law, Detroit will be willing to deliver a bond in payment of the principal amount of the advance made by the Reconstruction Finance Corporation to Detroit in 1932, plus accrued interest in full from the time of the original advance to the present date.

Mr. Sullivan was in error.

The position of the city of Detroit in connection with this advance for a welfare emergency has been, and still is, that both the face amount and the interest should be canceled. A detailed history of this whole transaction reveals the logic of the city's contention and the consistency of the city's position since the money was first advanced by the Federal Government.

The full force of the depression was first felt in Detroit in the fiscal year 1930-31, in which year the city was obliged to spend more than \$13,000,000 from its own revenues and borrowings to alleviate distress among its citizens. In 1931-32 the city spent almost \$8,000,000 for the same purpose.

These large outlays were necessary in a period of rapidly falling tax collections and are sharply in contrast with the \$2,000,000 or \$3,000,000 appropriated annually for welfare purposes before the national collapse. These funds were required, not because Detroit itself had upset the economic equilibrium, but because the whole national system was paralyzed to such an extent that it was unable to consume the commodities that Detroit stood ready to produce. Much of the welfare load that Detroit supported throughout the depression was represented by individuals and families who had come to Detroit to benefit from the better wages and higher standards of living which prevailed here.

To relieve the critical conditions which had developed in Detroit and other industrial areas, Congress, in 1932, passed the Emergency Relief and Construction Act, which provided for advances of \$300,000,000 to the several governmental levels and units. All but \$20,000,000 of this total was made available for loans to States, repayment of which was pledged from subsequent Federal grants for highway purposes. The \$20,000,000 was made available for loans to cities, repayment of which was pledged by obligations of the borrowing municipalities.

The city of Detroit made strenuous efforts to obtain funds from that portion made available to States, through the then Governor of Michigan. That individual rejected the city's pleas, solely on the basis that it was improvident for municipalities to be dependent on the Federal Government for welfare assistance, even though subsequently he did obtain relief money for Michigan under exactly the same section which Detroit wished to utilize.

The situation was so critical in Detroit that the city was, of necessity, obliged to seek assistance under the second alternative, and obtained \$1,800,000 from the R. F. C., delivering therefor an interim receipt, to be subsequently exchanged for bonds in that face amount. There was no other choice.

In the months that followed, tax collections fell off drastically, the city exhausted every possible revenue and credit avenue, and, over and above the extraordinary welfare load, was compelled to meet a \$32,000,000 debt service—the highest in the city's history.

Plans were well under way in February 1933, for an over-all refinancing of the city's floating obligations, totaling approximately \$20,000,000 by Detroit industrialists and New York banks. These plans were virtually at the point of consummation when, by action



[PUBLIC LAW 445—77TH CONGRESS]

[CHAPTER 52—2D SESSION]

[H. R. 5833]

AN ACT

To extend the time during which orders and marketing agreements under the Agricultural Adjustment Act, as amended, may be applicable to hops.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act entitled "An Act to amend the Agricultural Adjustment Act, as amended, by including hops as a commodity to which orders under such Act are applicable", approved April 13, 1938, as amended, is amended by striking out "September 1, 1942" and inserting in lieu thereof "September 1, 1945".

SEC. 2. Subsection (6) of section 8c of the Agricultural Adjustment Act, as amended, is amended by deleting the comma after the word "hops" in the first paragraph thereof and inserting the words "and their products" and a comma.

SEC. 3. Subsection (6) of section 8c of the Agricultural Adjustment Act, as amended, is further amended by adding thereto the following new paragraph:

"(F) In the case of hops and their products, in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

"(i) Limiting, or providing methods for the limitation of, the total quantity thereof, or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as directly to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

"(ii) Apportioning, or providing methods for apportioning, the total quantity of hops of the production of the then current calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops

of similar characteristics as to productivity, subject to adjustment as just provided for.

"(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding section (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 8a of this title."

Approved, February 10, 1942.

